

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

**In the Matter of the Nebraska Public Service Commission, on its own motion, to make adjustments to the universal service fund mechanism established in NUSF-26**

**Application No. NUSF-50**

**Application No. NUSF-4**

**QWEST CORPORATION'S  
NOTICE OF FILING THE REPLY TESTIMONY  
OF  
PETER B. COPELAND**

Qwest Corporation ("Qwest") hereby notices and submits the reply testimony of Peter B. Copeland on this 23<sup>rd</sup> day of October, 2006.

Respectfully submitted,

  
**QWEST CORPORATION**

By: \_\_\_\_\_

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**ATTORNEYS FOR QWEST CORPORATION**

Certificate of Service

I certify that a true and correct copy of the Qwest Corporation's NUSF-50 Reply Comments was sent via electronic mail and First-class U.S. mail and electronic mail on January 30, 2006 to the following:

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By:   
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**IDENTIFICATION OF WITNESS**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Peter B. Copeland and my business address is 1801 California St.,  
Denver, Colorado 80202. I am employed by Qwest Services Corporation ("Qwest")  
as Director, Cost and Economic Analysis, in the Public Policy organization.

**Q. DID YOU FILE DIRECT TESTIMONY IN THIS CASE?**

A. Yes.

**PURPOSE OF REPLY TESTIMONY**

**Q. WHAT IS THE PURPOSE OF YOUR REPLY TESTIMONY?**

A. The purpose of my reply testimony is to comment on direct testimony that  
discussed changes to the long term universal service fund mechanism originally  
established in NUSF-26. My reply testimony responds to a number of proposed  
modifications to the Commission's own proposals made in the August 29, 2006  
NUSF-50 Order. Specifically, I address four areas: 1) the direct testimony of Sue  
Vanicek and Kevin Kelly regarding the transition mechanisms; 2) the direct  
testimony of Sue Vanicek, David Ruhland, and Kevin Kelly regarding the imputation  
of Federal USF; 3) statements by Dale Musfeldt that UNE loop rates are not cost-  
based and related statements by Allo that this NUSF-50 docket should address  
reductions in the prices CLECs must pay for essential UNEs; and 4) Dale Musfeldt's  
"Proposal" for modifying the manner in which CLECs receive NUSF support.

1  
2 **Q. IN YOUR DIRECT TESTIMONY YOU STATED THAT YOU WOULD**  
3 **FURTHER DEVELOP THE ISSUES YOU RAISED BASED ON STAFF'S**  
4 **DIRECT TESTIMONY SUPPORTING THE COMMISSION'S PROPOSALS.**  
5 **ARE YOU ABLE TO EXPAND ON THOSE PORTIONS OF YOUR DIRECT**  
6 **TESTIMONY HERE IN YOUR REPLY TESTIMONY?**

7 A. No. In my direct testimony, I raised a number of issues which I intended to address  
8 in my reply testimony based on my anticipation that staff direct testimony would  
9 provide documentation of the development of the fund size and provide fuller  
10 descriptions of the methodology changes proposed in the Order. However, my  
11 expectations concerning staff's direct testimony proved incorrect. Staff did not  
12 provide any factual support for the reduced fund size, nor did staff provide  
13 documentation for development of the fund size. Additionally, staff testimony  
14 provided no comments or support for critical methodology changes, such as the  
15 imputation of FUSF or the implementation of the rural benchmark. Thus, I will not  
16 be able to address these issues in relation to staff's testimony at this time. I will need  
17 to address these issues at the hearing pending staff's more complete description and  
18 justification for their proposal.

19 **Q. ARE THERE ANY OTHER CRITICAL ISSUES THAT STAFF FAILED TO**  
20 **CLARIFY IT DIRECT TESTIMONY?**

21 A. Yes, the staff has not expanded upon paragraph 18 of the Order which proposes to  
22 equalize the per-line NUSF support between CETCs and ILECs. I will not restate my

1 direct testimony on this matter, but only wish to emphasize the critical nature of  
2 reforming these procedures that currently provide a disproportionate amount of NUSF  
3 to CETCs in Qwest's territory and even provides NUSF support to CETC customers  
4 who would not receive support if served by Qwest.

5  
6 **TRANSITION MECHANISM**

7  
8 **Q. TWO WITNESSES, SUE VANICEK, REPRESENTING THE RURAL**  
9 **INDEPENDENT TELEPHONE COMPANIES AND KEVIN KELLY**  
10 **REPRESENTING THE RURAL TELECOMMUNICATIONS COALITION OF**  
11 **NEBRASKA PROPOSE THAT FUND REDUCTIONS BE MADE**  
12 **PRIMARILY THROUGH REDUCTIONS IN THE TRANSITIONAL**  
13 **SUPPORT MECHANISMS. DOES THIS METHOD OF REDUCING THE**  
14 **NUSF TREAT ALL CARRIERS AND THEIR HIGH COST CUSTOMERS**  
15 **FAIRLY AND EQUITABLY?**

16 **A.** No. Since Qwest's funding for its high cost customers under the Commission's  
17 proposal would be reduced by nearly \$11 for each of its residential customers, Qwest  
18 is uniquely impacted by changes to the transition mechanism on an absolute scale.  
19 Only four of the rural independent companies are affected by a similar percentage  
20 magnitude as Qwest<sup>1</sup>. Reductions in the transition mechanism would accelerate the  
21 process of Qwest moving recovery of formerly explicit universal service support to

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<sup>1</sup> Clarks, Curtis, Hemingford, and Mainstay.

1 service prices as the only means of maintaining basic exchange service in the high  
2 cost areas that it serves in Nebraska.

3  
4 **FUSF IMPUTATION**

5  
6 **Q. WITNESSES KELLY, RUHLAND, AND VANICEK DISAGREE WITH THE**  
7 **PROPOSED FUSF IMPUTATION IN DETERMINING NUSF. WHAT IS**  
8 **QWEST'S POSITION ON IMPUTATION OF FUSF?**

9 A. Qwest believes that an imputation of FUSF is logical to include because several  
10 FUSF programs are specifically designed to recover costs that normally fall into the  
11 intrastate jurisdiction through the federal-state separations process. However, Qwest  
12 does not support the Commission's proposed methodology for imputing FUSF.

13  
14 **Q. DO YOU AGREE WITH WITNESS KEVIN KELLY'S POSITION THAT THE**  
15 **PSC SHOULD NOT ALLOCATE INTERSTATE EARNINGS TO THE STATE**  
16 **JURISDICTION?**

17 A. I agree that the interstate earnings should not be allocated to the Nebraska intrastate  
18 jurisdiction. There may be legal concerns as to why interstate earnings should not be  
19 utilized in the Commission's proposed methodology because these earnings represent  
20 interstate commerce which is under the FCC's jurisdiction and thus precluded from  
21 state action. Regardless of the legal basis for using earnings, there are more direct  
22 methods of properly accounting for FUSF by the NUSF.

23

1 **Q. DO YOU AGREE WITH THE NEBRASKA RURAL INDEPENDENT**  
2 **TELEPHONE COMPANIES' WITNESS SUE VANICEK'S POSITION THAT**  
3 **RELIANCE ON FUSF SUPPORT FOR NUSF SUPPORT WOULD BE A**  
4 **VIOLATION OF THE TELECOMMUNICATIONS ACT OF 1996?**

5 A. No. I won't take a legal position, but including the FUSF in the calculation of NUSF  
6 is a means of preventing double recovery of loop and switching costs. If properly  
7 done, this will not burden the FUSF, but properly account for the fund's intended use.  
8 The Commission should use and assign the FUSF high-cost support to set the level of  
9 NUSF high-cost support by matching the associated cost, revenue, and explicit  
10 support for providing high-cost service. The FCC has specifically stated that, "High-  
11 cost loop support provides support for a portion of a carrier's total cost allocated to  
12 the intrastate jurisdiction. Similarly, LSS is available to support the intrastate  
13 switching costs of carriers with 50,000 or fewer lines."<sup>2</sup> The FCC separations rules  
14 also clearly state at Part 36.601 that expense adjustments such as high cost loop and  
15 LSS are added to interstate expenses and deducted from state expenses. These expense  
16 adjustments are administered and funded through the FUSF system described in Part  
17 54, of the FCC's universal service rules. Since the Commission uses unseparated cost  
18 in its NUSF distribution model, it is appropriate and justifiable to take into account  
19 FUSF "revenues" that directly offset the unseparated cost.

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<sup>2</sup> See footnote 446 in CC Docket No. 96-45 & CC Docket No. 00-256, FOURTEENTH REPORT AND ORDER, TWENTY-SECOND ORDER ON RECONSIDERATION, AND FURTHER NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 96-45, AND REPORT AND ORDER IN CC DOCKET NO. 00-256, Released: May 23, 2001.



1 **Q. DO YOU AGREE WITH FRONTIER'S WITNESS DAVID RUHLAND'S**

2 **POSITION THAT ONLY 75% OF HIGH-COST LOOP SUPPORT SHOULD**

3 **BE INCLUDED IN THE INTRASTATE EARNINGS CALCULATION?**

4 A. No, the FCC rules in 47 CFR Part 36 and the FCC's statements in prior orders clearly  
5 state that all federal universal service high-cost support can be accounted for by the  
6 states in their intrastate ratemaking processes.<sup>3</sup> The FCC specifically stated that they  
7 "find that it is most appropriate for states to determine how the support is used to  
8 advance the goals set out in section 254(e)" and they did not limit the state's  
9 jurisdiction to only 75% of the support. The most important matter is treating the  
10 costs and revenues associated with the services supported by NUSF consistently.

11  
12 **Q. WHICH FUSF PROGRAMS DOES QWEST PROPOSE BE TAKEN INTO**

13 **ACCOUNT IN DEVELOPING THE NUSF?**

14 A. Qwest proposes that the following federal USF programs be included in determining  
15 NUSF: rural high cost loop support, non-rural high cost model support, safety net  
16 additive support, safety valve support, and local switching support. All these support  
17 mechanisms provide support for a portion of a carrier's total cost normally allocated  
18 to the intrastate jurisdiction. The Part 36 and Part 54 Rules of the FCC provide that a  
19 portion of the intrastate cost covered under these programs be specifically allocated to  
20 the interstate jurisdiction to be recovered through the FUSF and be portable to  
21 CETCs. Other programs, such as Interstate Access Support (IAS) or Interstate

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<sup>3</sup> See paragraph 95 in CC Docket No. 96-45, NINTH REPORT & ORDER AND EIGHTEENTH ORDER ON RECONSIDERATION released 11/2/1999.

1 Common Line Support (ICLS) should not be included since they offset costs that are  
2 normally recovered through interstate rates, such as the federal subscriber line charge.  
3

4 **Q. HOW DO YOU PROPOSE THAT FUSF BE ACCOUNTED FOR IN THE**  
5 **COMMISSION'S PROCESS FOR DETERMINING CARRIER SPECIFIC**  
6 **NUSF?**

7 A. Consistency between costs and revenues should be of foremost importance when  
8 including FUSF in process of determining NUSF. Carriers receiving FUSF treat the  
9 receipts as revenues. Therefore, the most appropriate place to account for FUSF is in  
10 the revenue benchmark as a revenue per-line additive in the exact same manner as the  
11 subscriber line charge (SLC). This methodology keeps the construct of the  
12 benchmark consistent with the costs developed by the Commission's regression  
13 model. All incumbent carriers are treated equally in this manner and no double cost  
14 recovery can result.  
15

16 **ALLEGATIONS THAT UNE LOOPS ARE NOT COST-BASED**

17  
18 **Q. ARE THE PRICES OR THE PROVISIONING OF UNBUNDLED LOOPS AN**  
19 **APPROPRIATE ISSUE IN A DOCKET CONCERNING NUSF?**

20 A. No. The prices/costs of unbundled loops and other unbundled elements can only be  
21 discussed in a cost docket where compliance with TELRIC methodology is not only  
22 the primary consideration, but the only consideration. Allo's comments lament that,  
23 "This concept of reducing the ILEC's underlying costs/prices, specifically the UNE

1 loop cost, is not addressed in this Docket at all!” Allo’s comments completely ignore  
2 the historical facts of the NUSF docket Orders, as well as the cost docket Orders and  
3 FCC rules for calculating the prices of UNEs. The UNE loop prices were approved  
4 by the Commission in a cost docket where, based on evidence, the Commission  
5 adopted a staff proposal for setting the UNE costs/prices. Qwest, at a later date,  
6 voluntarily reduced its UNE loop prices. Allo has not presented any evidence that  
7 supports lower TELRIC-based UNE loop rates in an appropriate cost docket much  
8 less this docket. Allo argues that it cannot economically compete when market  
9 prices are below the costs it incurs to purchase loops. Setting aside for the moment  
10 that when a carrier builds or obtains a loop to serve a customer, it can gain revenue  
11 from that loop in addition to the price for residential or business lines, such as access  
12 revenue and revenue for calling features, these arguments apply with equal force to  
13 Qwest. The loop prices that CLECs like Allo pay are based on the TELRIC costs  
14 Qwest must incur to provide those loops. If Qwest does not receive revenue in  
15 amounts greater than its loop costs, Qwest cannot compete and cannot support  
16 universal service. And Qwest built the network. If the Commission continues to  
17 divert NUSF support to CLECs for lines and in amounts Qwest does not receive  
18 support, both Qwest and the interests of Nebraska customers will be harmed.

19 The NUSF was not designed to artificially prop up competition by providing  
20 competitors with a cost and/or revenue advantage compared to the incumbent.  
21 Rather, the NUSF must be, consistent with state and federal law, “competitively  
22 neutral.” Providing CLECs support for in-town lines when Qwest receives no such

1 support is not competitively neutral. Neither is providing CLECs with an essentially  
2 static amount of per-line support while Qwest's receipts decline. The current system  
3 is not competitively neutral. Competitive neutrality aside, with a decreased fund size  
4 resulting from the lower surcharge, the NUSF simply lacks the ability to artificially  
5 prop up competition. Allo's pleas for competitive advantages must be rejected, and  
6 the Commission should consider implementing the proposal outlined in Progression  
7 Order No. 2 in this docket as a mechanism to fairly appropriate NUSF support to  
8 supported lines, in amounts related to the support the incumbent actually receives.  
9

10 **Q. NT&T'S WITNESS DALE MUSFELDT STATES THAT THE COMMISSION**  
11 **MUST TAKE STEPS TO REQUIRE QWEST'S AND WINDSTREAM'S LOOP**  
12 **RATES TO BE COST-BASED. HAS ANY DETERMINATION BEEN MADE**  
13 **THAT QWEST AND WINDSTREAM NO LONGER HAVE COST-BASED**  
14 **UNE LOOP RATES?**

15 A. No. Both Qwest's and Windstream's UNE loop rates have been found to be cost-  
16 based by the Commission in cost dockets.<sup>4</sup> To my knowledge, no credible evidence  
17 has been presented in any filing with this Commission, since the current rates became  
18 effective, that suggests producing new properly constructed TELRIC studies for  
19 Qwest's UNE loop results in decreasing cost.  
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<sup>4</sup> Docket Nos. C-3012 (Alltel/Windstream) and C-2516 (Qwest).

**NT&T ALTERNATIVE PROPOSAL**

**Q. DOES NT&T OFFER AN ALTERNATIVE PROPOSAL FOR REDUCING  
THE NUSF SUPPORT LEVELS?**

A. In NT&T witness Dale Musfeldt's testimony he states that the Commission should "strongly consider" adopting NT&T's proposal. Mr. Musfeldt provides an Excel spreadsheet (Exhibit A) of his calculations with his testimony. Nevertheless, Mr. Musfeldt's testimony is otherwise devoid of any description of his plan other than using "effective Zone 1 loop rates" for zones 2 and 3. No discussion is provided concerning the overall effect of his plan on other fund recipients, nor is there justification for the use of effective Zone 1 loop rates.

**Q. DOES QWEST BELIEVE THAT THE NT&T PLAN HAS MERIT?**

A. NT&T's proposal has no merit whatsoever for two reasons. First, NT&T starts with its current levels of NUSF support that provide support to it and other CETCs for serving in-town residential customers as well as grandfathered business customers. Qwest receives neither NUSF for serving in-town residential customers nor support for any business customer, even if that customer is out of town. This process is completely discriminatory and not competitively neutral. Both the August 29 Order and Progression Order No. 2 propose remedies for this massive problem with NUSF, even though NT&T chooses to ignore those proposals.

Second, the impact of the NT&T proposal on Qwest's support is devastating. Under NT&T's proposal, their funding would be reduced by 16 percent to \$7.1M. In

1 comparison, under the Commission's Order Qwest's funding post-transition would be  
2 reduced by 33 percent, but with the overlay of NT&T's proposal, Qwest's post-  
3 transition, post-porting support would be reduced to \$2.6M for a reduction of over 80  
4 percent. If other CETCs were included in this analysis, the reduction for Qwest  
5 would be even greater. At the same time, NT&T proposes that it receive over \$7.1M  
6 for serving 1/9<sup>th</sup> the customers that Qwest serves in these areas. NT&T's proposal  
7 has nothing to do with universal service in Nebraska, it only concerns propping up the  
8 operations of NT&T at the expense of Qwest and the Nebraskans paying the NUSF  
9 surcharge.

10 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

11 A. Yes.